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OFFICE OF PETITIONS

In re Application of	:	
Everett Arthur Corl, Jr. et al.	:	
Application No. 10/034,470	:	DECISION ON PETITION
Filed: December 28, 2001	:	UNDER 37 C.F.R. § 1.181
Attorney Docket No.:	:	
RAL920000129SU1	:	
Title: CLASSIFICATION SUPPORT	:	
SYSTEM AND METHOD FOR	:	
FRAGMENTED IP PACKETS	:	

This is a decision on the petition filed April 13, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. §1.113 in a timely manner to the final Office action mailed February 24, 2006, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R. §1.136(a) were obtained, and no responses were received. Accordingly, the above-identified application became abandoned on May 25, 2006. A notice of abandonment was mailed on February 27, 2007.

With the present petition, Petitioner has asserted that the non-final Office action was not received.

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the

docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement¹.

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the Office communication was not received, that he has searched both the file jacket and the docket record, and he has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the final Office action of February 24, 2006, and will set a new period for response.

It is noted that Petitioner has submitted \$500 with this petition, however there is no fee associated with the filing of a petition pursuant to Rule § 1.181. As such, the \$500 will be refunded to Petitioner's Deposit Account, as authorized in the petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225². All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

¹ See MPEP 711.03(c).

² Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).